

AMENDED IN ASSEMBLY JUNE 23, 2009

AMENDED IN SENATE MAY 19, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 201

Introduced by Senator Oropeza

February 23, 2009

An act to amend Section 21100.4 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 201, as amended, Oropeza. Vehicles: illegal taxicabs.

Existing law requires a magistrate, who is presented with the affidavit of a peace officer or a designated local transportation officer establishing reasonable cause to believe that a vehicle, described by vehicle type and license number, is being operated as a taxicab or other passenger vehicle for hire in violation of the licensing requirements adopted by a local authority, to issue a warrant or order authorizing any peace officer to immediately seize and cause the removal of the vehicle *for a period of impoundment not to exceed 30 days*. ~~The period of impoundment of a vehicle under this provision may not exceed 30 days. Existing~~

~~Existing law provides that also requires the impounding agency to release the vehicle may be released to the registered or legal owner or his or her agent prior to the end of the period of impoundment and without the permission of the magistrate authorizing the seizure of the vehicle if specified conditions are met and prohibits the legal owner or his or her agent from releasing the vehicle to the registered owner until the termination of the impoundment period. Existing law also specifies~~

when the registered or legal owner or his or her agent is responsible for paying all towing and storage charges or fees.

~~This bill would revise these provisions to provide that a vehicle operated as an illegal taxicab or illegally as a passenger vehicle for hire shall not be released prior to the period of impoundment unless certain conditions are met.~~

This bill would revise the conditions by which the impounded vehicle is required to be released to the legal owner or the legal owner's agent prior to the end of the impoundment period and without the permission of the magistrate authorizing the seizure of the vehicle.

The bill would also establish monetary transaction requirements for a person operating or in charge of a storage facility, including accepting a valid bank credit card or cash for payment of towing, storage, and related fees by a legal or registered owner or the owner's agent claiming the vehicle. The bill would provide that the person operating or in charge of a storage facility who violates these requirements is civilly liable to the owner or the vehicle or to the person who tendered the fees for 4 times the amount of the towing, storage, and related fees, but not to exceed \$500.

~~This bill would provide that make a legal owner who, knowingly and with intent to avoid compliance with the above provisions, releases or causes the release of a vehicle to a registered owner or the person in possession of the vehicle at the time of the impound or an agent of the registered owner prior to the termination of the impoundment period shall be subject to a fine civil penalty in the amount of \$1,250.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21100.4 of the Vehicle Code is amended
2 to read:
3 21100.4. (a) (1) A magistrate presented with the affidavit of
4 a peace officer or a designated local transportation officer
5 establishing reasonable cause to believe that a vehicle, described
6 by vehicle type and license number, is being operated as a taxicab
7 or other passenger vehicle for hire in violation of licensing
8 requirements adopted by a local authority under subdivision (b)
9 of Section 21100 shall issue a warrant or order authorizing the
10 peace officer or designated local transportation officer to

1 immediately seize and cause the removal of the vehicle. As used
2 in this section, “designated local transportation officer” means any
3 local public officer employed by a local authority to investigate
4 and enforce local taxicab and vehicle for hire laws and regulations.

5 (2) The warrant or court order may be entered into a
6 computerized database.

7 (3) A vehicle so impounded may be impounded for a period not
8 to exceed 30 days.

9 (4) The impounding agency, within two working days of
10 impoundment, shall send a notice by certified mail, return receipt
11 requested, to the legal owner of the vehicle, at an address obtained
12 from the department, informing the owner that the vehicle has
13 been impounded and providing the owner with a copy of the
14 warrant or court order. Failure to notify the legal owner within
15 two working days shall prohibit the impounding agency from
16 charging for more than 15 days’ impoundment when a legal owner
17 redeems the impounded vehicle.

18 (b) (1) An impounding agency shall release a vehicle to the
19 registered owner or his or her agent prior to the end of the
20 impoundment period and without the permission of the magistrate
21 authorizing the vehicle’s seizure under any of the following
22 circumstances:

23 (A) When the vehicle is a stolen vehicle.

24 (B) When the vehicle was seized under this section for an
25 offense that does not authorize the seizure of the vehicle.

26 (2) A vehicle shall not be released under this subdivision, except
27 upon presentation of the registered owner’s or agent’s currently
28 valid license to operate the vehicle under the licensing requirements
29 adopted by the local authority under subdivision (b) of Section
30 21100, and proof of current vehicle registration, or upon order of
31 the court.

32 (c) (1) Whenever a vehicle is impounded under this section,
33 the magistrate ordering the storage shall provide the vehicle’s
34 registered and legal owners of record, or their agents, with the
35 opportunity for a poststorage hearing to determine the validity of
36 the storage.

37 (2) A notice of the storage shall be mailed or personally
38 delivered to the registered and legal owners within 48 hours after
39 issuance of the warrant or court order, excluding weekends and

1 holidays, by the person or agency executing the warrant or court
2 order, and shall include all of the following information:

3 (A) The name, address, and telephone number of the agency
4 providing the notice.

5 (B) The location of the place of storage and a description of the
6 vehicle, that shall include, if available, the name or make, the
7 manufacturer, the license plate number, and the mileage of the
8 vehicle.

9 (C) A copy of the warrant or court order and the peace officer's
10 affidavit, as described in subdivision (a).

11 (D) A statement that, in order to receive their poststorage
12 hearing, the owners, or their agents, are required to request the
13 hearing from the magistrate issuing the warrant or court order in
14 person, in writing, or by telephone, within 10 days of the date of
15 the notice.

16 (3) The poststorage hearing shall be conducted within two court
17 days after receipt of the request for the hearing.

18 (4) At the hearing, the magistrate may order the vehicle released
19 if he or she finds any of the circumstances described in subdivision
20 (b) or (e) that allow release of a vehicle by the impounding agency.

21 (5) Failure of either the registered or legal owner, or his or her
22 agent, to request, or to attend, a scheduled hearing satisfies the
23 poststorage hearing requirement.

24 (6) The agency employing the peace officer or designated local
25 transportation officer who caused the magistrate to issue the
26 warrant or court order shall be responsible for the costs incurred
27 for towing and storage if it is determined in the poststorage hearing
28 that reasonable grounds for the storage are not established.

29 (d) The registered owner or his or her agent is responsible for
30 all towing and storage charges related to the impoundment, and
31 any administrative charges authorized under Section 22850.5.

32 (e) A vehicle removed and seized under subdivision (a) shall
33 be released to the legal owner of the vehicle or the legal owner's
34 agent prior to the end of the impoundment period and without the
35 permission of the magistrate authorizing the seizure of the vehicle
36 if all of the following conditions are met:

37 (1) The legal owner is a motor vehicle dealer, bank, credit union,
38 acceptance corporation, or other licensed financial institution
39 legally operating in this state or is another person, not the registered
40 owner, holding a financial interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure of the vehicle. A lien sale processing fee shall not be charged to the legal owner who redeems the vehicle prior to the 15th day of impoundment. Neither the impounding authority nor any person having possession of the vehicle shall collect from the legal owner of the type specified in paragraph (1), or the legal owner's agent, any administrative charges imposed pursuant to Section 22850.5 unless the legal owner voluntarily requested a poststorage hearing.

~~(3) (A) The legal owner or the legal owner's agent presents either lawful foreclosure documents or a certificate of repossession and a security agreement or title showing proof of legal ownership for the vehicle. The documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The impounding agency may not require any documents to be notarized. The impounding agency may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the impounding agency, that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.~~

(3) (A) The legal owner or the legal owner's agent presents a copy of the assignment, as defined in subdivision (b) of Section 7500.1 of the Business and Professions Code, and a release from the one responsible governmental agency, only if required by the agency or a government-issued photographic identification card, and any one of the following, as determined by the legal owner or the legal owner's agent: a certificate of repossession for the vehicle, a security agreement for the vehicle, or title, whether paper or electronic, showing proof of legal ownership for the vehicle. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The law enforcement agency, impounding agency, or any other governmental agency, or any person acting on behalf of those agencies shall not require any documents to be notarized. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency

1 *license or registration issued pursuant to Chapter 11 (commencing*
2 *with Section 7500) of Division 3 of the Business and Professions*
3 *Code, or to demonstrate, to the satisfaction of the law enforcement*
4 *agency, impounding agency, or any person acting on behalf of*
5 *those agencies that the agent is exempt from licensure pursuant*
6 *to Section 7500.2 or 7500.3 of the Business and Professions Code.*

7 (B) No administrative costs authorized under subdivision (a) of
8 Section 22850.5 ~~may~~ shall be charged to the legal owner of the
9 type specified in paragraph (1), who redeems the vehicle unless
10 the legal owner voluntarily requests a poststorage hearing. ~~No A~~
11 ~~city, county, city and county, or state agency shall not require a~~
12 ~~legal owner or a legal owner's agent to request a poststorage~~
13 ~~hearing as a requirement for release of the vehicle to the legal~~
14 ~~owner or the legal owner's agent. The impounding agency may~~
15 ~~law enforcement agency, impounding agency, or other~~
16 ~~governmental agency, or any person acting on behalf of those~~
17 ~~agencies, shall not require any documents other than those~~
18 ~~specified in this paragraph. The impounding agency may not~~
19 ~~require any documents to be notarized.~~

20 (C) ~~As used in this paragraph, "foreclosure documents" means~~
21 ~~an "assignment" as that term is defined in subdivision (o) of~~
22 ~~Section 7500.1 of the Business and Professions Code. law~~
23 ~~enforcement agency, impounding agency, or other governmental~~
24 ~~agency, or any person acting on behalf of those agencies, shall~~
25 ~~not require any documents to be notarized. The legal owner or the~~
26 ~~legal owner's agent shall be given a copy of any documents he or~~
27 ~~she is required to sign, except for a vehicle evidentiary hold log~~
28 ~~book. The law enforcement agency, impounding agency, or any~~
29 ~~person acting on behalf of those agencies, or any person in~~
30 ~~possession of the vehicle, may photocopy and retain the copies of~~
31 ~~any documents presented by the legal owner or legal owner's~~
32 ~~agent.~~

33 (4) A failure by a storage facility to comply with any of the
34 applicable conditions set forth in this subdivision shall not affect
35 the right of the legal owner or the legal owner's agent to retrieve
36 the vehicle if all conditions required of the legal owner or the legal
37 owner's agent under this subdivision are satisfied.

38 (f) (1) A person operating or in charge of a storage facility
39 where vehicles are stored pursuant to this section shall accept a
40 valid bank credit card or cash for payment of towing, storage, and

1 *related fees by a legal or registered owner, or the owner's agent*
2 *claiming the vehicle. A credit card shall be in the name of the*
3 *person presenting the card. "Credit card" has the same meaning*
4 *as defined in subdivision (a) of Section 1747.02 of the Civil Code,*
5 *except, for purposes of this section, credit card does not include*
6 *a credit card issued by a retail seller.*

7 *(2) A person operating or in charge of a storage facility*
8 *described in paragraph (1) who violates that paragraph shall be*
9 *civily liable to the legal or registered owner of the vehicle or to*
10 *the person who tendered the fees for four times the amount of the*
11 *towing, storage, and related fees, but not to exceed five hundred*
12 *dollars (\$500).*

13 *(3) A person operating or in charge of a storage facility*
14 *described in paragraph (1) shall have sufficient funds on the*
15 *premises of the primary storage facility during normal business*
16 *hours to accommodate, and make change in, a reasonable*
17 *monetary transaction.*

18 *(4) Credit charges for towing and storage services shall comply*
19 *with Section 1748.1 of the Civil Code. Law enforcement agencies*
20 *may include the costs of providing for payment by credit when*
21 *making agreements agreeing with towing companies on rates.*

22 ~~(f)~~

23 *(g) (1) A legal owner or the legal owner's agent that obtains*
24 *release of the vehicle pursuant to subdivision (e) ~~may~~ shall not*
25 *release the vehicle to the registered owner of the vehicle, or the*
26 *person who was listed as the registered owner when the vehicle*
27 *was impounded, or any agents of the registered owner until the*
28 *termination of the impoundment period.*

29 *(2) The legal owner or the legal owner's agent ~~may~~ shall not*
30 *relinquish the vehicle to the registered owner or the person who*
31 *was listed as the registered owner when the vehicle was impounded*
32 *until the registered owner or that owner's agent presents his or her*
33 *valid driver's license or valid temporary driver's license, and an*
34 *operator's license that is in compliance with the licensing*
35 *requirements adopted by the local authority under subdivision (b)*
36 *of Section 21100, to the legal owner or the legal owner's agent.*
37 *The legal owner or the legal owner's agent or the person in*
38 *possession of the vehicle shall make every reasonable effort to*
39 *ensure that the licenses presented are valid and that the vehicle is*

1 *not released to the driver who was involved in the original impound*
2 *proceeding until the expiration of the impoundment period.*

3 (3) Prior to relinquishing the vehicle, the legal owner may
4 require the registered owner to pay all towing and storage charges
5 related to the impoundment and the administrative charges
6 authorized under Section 22850.5 that were incurred by the legal
7 owner in connection with obtaining the custody of the vehicle.

8 (4) A legal owner who, *knowingly and with intent to avoid*
9 *compliance with this subdivision*, releases or causes the release of
10 a vehicle to a registered owner or the person in possession of the
11 vehicle at the time of the impound or an agent of the registered
12 owner in violation of this subdivision shall be subject to a ~~fine~~
13 *civil penalty* in the amount of one thousand two hundred fifty
14 dollars (\$1,250).

15 ~~(g)~~

16 (h) Notwithstanding any other provision of this section, the
17 registered owner and not the legal owner shall remain responsible
18 for any towing and storage charges related to the impoundment
19 and the administrative charges authorized under Section 22850.5
20 and any parking fines, penalties, and administrative fees incurred
21 by the registered owner.

22 ~~(h)~~

23 (i) The impounding agency is not liable to the registered owner
24 for the improper release of the vehicle to the legal owner or the
25 legal owner's agent if the release complies with this section.